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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

TOWN OF HAMPTON v. JONES et al.

June 14, 1906.

[54 S. E. 16.]

Municipal Corporations—Officers—Right to Compensation.—A county treasurer who under act May 23, 1897 (Acts Ex. Sess. 1887, p. 486, c. 382), was ex officio treasurer of a town, was not entitled to compensation as town treasurer beyond January 1, 1904, to which time his term of office was extended by Const. 1902, schedule, § 11; he then having ceased to be a de jure officer, and not having been a de facto officer, because the duties of the office were performed by another, who had been appointed and qualified as treasurer of the town, and provision having been made by Acts 1902-04, p. 487, c. 276, for a separate treasurer for the town.

SOUTHERN RY. CO. v. HANSBROUGH'S ADM'X.

June 14, 1906.

[54 S. E. 17.]

1. Railroads—Injury to Person on Track—Pleading—Declarations—Sufficiency.—A declaration, in an action against a railway company for injuries to a traveler in a collision with an engine operated on a street, which alleges that the engine was running at a high rate of speed, carelessly, negligently, and unskillfully, without pointing out in what manner it was so run, and without alleging a violation of any ordinance, or averring any obstruction to the view of persons crossing the track, which made it necessary for the company not to run its engines at a high rate of speed, states no cause of action, because it fails to point out in what manner the company was negligent and to show what duty it owed to the traveler which it neglected to perform.

2. Same.—A declaration, in an action against a railway company for injuries to a traveler in a collision with an engine operated on a street, which alleges that it was the duty of the company to run its engine at 5 miles an hour, and that it ran the same at 40 miles an hour, without alleging the violation of any ordinance or statute, and which alleges that the bell was not rung without alleging any ordinance or statute requiring the ringing of the bell, and without charging the company with any failure to exercise caution to prevent

injury after seeing the traveler, states no cause of action, because it fails to state facts showing any duty on the part of the company.

3. Same.—A declaration, in an action against a railroad company for injuries to a traveler in a collision with an engine operated on a street, which sets out the ordinance making it unlawful for trains to be run at a greater speed than 5 miles per hour, and requiring every locomotive to be furnished with a bell, which shall be rung during the time the locomotive is in motion, and which alleges a violation of the ordinance as the proximate cause of the injury, sets out facts sufficient to inform the company of the existence of the duty which it is claimed was neglected, and which negligence caused the injury complained of.

NORFOLK & W. RY. CO. *v.* STEGALL'S ADM'X.*

June 21, 1906.

[54 S. E. 19.]

1. Death—Action—Pleading.—Where, in an action for death, the first count of the declaration failed to set forth the circumstances attending the death of plaintiff's intestate in such a manner as to show that the relations existing between the parties imposed a duty on defendant, the negligent breach of which was the proximate cause of intestate's death, it was fatally defective.

[Ed. Note.—For cases in point, see vol. 15, Cent. Dig. Death, §§ 60, 61.]

2. Pleading—Demurrer to Declaration—Several Counts.—Where a declaration containing more than one count is demurred to as a whole, the demurrer should be overruled if any of the counts are good.

[Ed. Note.—For cases in point, see vol. 39, Cent. Dig. Pleading, §§ 486-490.]

3. Same.—Where there are two or more counts in a declaration or a single count containing several breaches, some well and others ill assigned or containing a demand of several matters, divisible in their nature, some of which are well and others ill claimed, and a demurrer is filed to the whole declaration and to each count thereof or to the several breaches assigned, the demurrer must be sustained to the invalid counts or breaches and overruled as to the others.

[Ed. Note.—For cases in point, see vol. 39, Cent. Dig. Pleading, §§ 486-490.]

4. Railroads—Persons on Track—Duty to Licensee.—A railroad company does not owe the duty of prevision to a bare licensee on its tracks, nor does it owe him the duty of employing competent servants

*This case is the subject of a learned article in this number of the "Register," (ante, p. 419) entitled, "Doctrine in Virginia as to the Duty of a Railroad Company to Licensees On Its Tracks."